IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 92 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

ARUNODAYA MILLS LTD.

Appearance:

MR MH JOSHI FOR MR MANISH R BHATT for Applicant.

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 07/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question has been referred for our opinion

in respect of assessment year 1984-85 :

"Whether, the Appellate Tribunal is right in law and on facts in holding that the voluntary contribution of Rs.5,000/- received by the assessee is not be treated as income in the hands of the assessee ?"

2 For taking the view that the voluntary contribution of Rs.5,000/- received by the assessee is not to be treated as income in the hands of the assessee, the Tribunanl has relied on its decision dated 3/10/1989 in the assessee's own case being ITA No.2027/'Ahd/86.

3 We have heard Mr.M.H.Joshi, learned Counsel for the revenue. Though served none appears for the respondent-assessee.

4 Our attention is invited to the decision dated 30/8/1996 in the case of this very assessee being Income Tax Reference No. 169 of 1983 wherein similar controversy was raised. After considering the decision of this Court in Gujarat Steel Tubes Ltd. vs. C.I.T. 210 I.T.R.358, this Court answered the question in favour of the assessee.

5 Following the aforesaid decision of this Court in the case of this very assessee, our answer to the question referred to us is in the affirmative i.e. in favour of the assessee and against the revenue.

6. The reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(M.S.Shah, J) (D.A.Mehta, J)

m.m.bhatt